

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jihan Varisco	Team: Team # 5	CCRB Case #: 201104555	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 04/05/2011 3:15 PM	Location of Incident: Plumb 1st Street and Avenue W; 61st Precinct stationhouse	Precinct: 61	18 Mo. SOL 10/5/2012	EO SOL 10/5/2012	
Date/Time CV Reported Mon, 04/11/2011 10:45 AM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Mon, 04/11/2011 10:45 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Timothy Brovakos	17292	943025	061 PCT
2. SGT Ana Ramirez	02734	914393	061 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Paul Savas	17514	942917	061 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Timothy Brovakos	Force: At Plumb 1st Street and Avenue W in Brooklyn, PO Timothy Brovakos used physical force against § 87(2)(b)	
B.POM Timothy Brovakos	Force: At Plumb 1st Street and Avenue W in Brooklyn, PO Timothy Brovakos used a chokehold against § 87(2)(b)	
C.POM Timothy Brovakos	Discourtesy: At Plumb 1st Street and Avenue W in Brooklyn, PO Timothy Brovakos spoke obscenely and/or rudely to § 87(2)(b)	
D.POM Timothy Brovakos	Off. Language: At Plumb 1st Street and Avenue W in Brooklyn, PO Timothy Brovakos made remarks to § 87(2)(b) based upon race.	
E.SGT Ana Ramirez	Abuse: At the 61st Precinct stationhouse, Sgt. Ana Ramirez authorized the strip search of § 87(2)(b)	

Case Summary

On April 11, 2011, § 87(2)(b) filed this complaint in person at the CCRB.

On April 5, 2011, at approximately 3:15 p.m., § 87(2)(b) was pulled over at Plumb 1st Street and Avenue W in Brooklyn by PO Timothy Brovakos and PO Paul Savas of the 61st Precinct. The following allegations resulted:

- **Allegation A – Force:** At Plumb 1st Street and Avenue W in Brooklyn, PO Timothy Brovakos used physical force against § 87(2)(b) § 87(2)(g)
- **Allegation B – Force:** At Plumb 1st Street and Avenue W in Brooklyn, PO Timothy Brovakos used a chokehold against § 87(2)(b) § 87(2)(g)
- **Allegation C – Discourtesy:** At Plumb 1st Street and Avenue W in Brooklyn, PO Timothy Brovakos spoke obscenely and/or rudely to § 87(2)(b) § 87(2)(g)
- **Allegation D – Offensive Language:** At Plumb 1st Street and Avenue W in Brooklyn, PO Timothy Brovakos made remarks to § 87(2)(b) based upon race. § 87(2)(g)
- **Allegation E – Abuse of Authority:** At the 61st Precinct stationhouse, Sgt. Ana Ramirez authorized the strip search of § 87(2)(b) § 87(2)(g)

Results of Investigation

Civilian Statement

Complainant: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old black male, 6'0", weighing 158 lbs, with black hair and brown eyes. § 87(2)(b)

Statements to Medical Personnel (encl. 3)

On § 87(2)(b), § 87(2)(b) was transported to § 87(2)(b) where he was treated in the emergency room. § 87(2)(b) denied having any pain, injuries, or symptoms.

CCRB Testimony

On April 11, 2011, § 87(2)(b) was interviewed at the CCRB (encl. 5).

On April 5, 2011, at approximately 3:15 p.m., § 87(2)(b) was driving at Plumb 1st Street and Avenue W in Brooklyn. An individual identified by the investigation as § 87(2)(b) was in the passenger seat. § 87(2)(b)'s vehicle has tinted windows. § 87(2)(b) was pulled over by officers identified by the investigation as PO Timothy Brovakos and PO Paul Savas. § 87(2)(b) described PO Brovakos as a dark-haired white male of medium height and provided his name. He described PO Savas

as a white male of medium height. PO Brovakos approached the passenger side of the vehicle while PO Savas approached the driver side. PO Brovakos spoke to § 87(2)(b) and PO Savas informed § 87(2)(b) that he had been pulled over for tinted windows. PO Brovakos asked § 87(2)(b) and § 87(2)(b) to exit the car; both of them complied. PO Brovakos walked around the car and patted down § 87(2)(b). He reached into § 87(2)(b)'s pockets and pulled out some loose cash but then put it back. PO Brovakos asked § 87(2)(b) "Where you going? Who do you know in the neighborhood?"

Less than three minutes after the initial stop, PO Brovakos told § 87(2)(b) "Open your mouth." § 87(2)(b) asked, "Huh? For what?" PO Brovakos grabbed § 87(2)(b) around the jaw with the thumb and first two fingers of his right hand and squeezed, possibly in an attempt to make § 87(2)(b) regurgitate something he had allegedly swallowed. § 87(2)(b) was unable to move due to this and denied physically doing anything. PO Brovakos let go of § 87(2)(b)'s mouth, grabbed the back of his shirt, and hurled him to the ground face-first. § 87(2)(b)'s entire body, including his face, landed on the ground, and he remained there with his left cheek against the ground. PO Brovakos placed his knee on the back of § 87(2)(b)'s neck, restricting his breathing. § 87(2)(b) specified that he felt light-headed but was able to breathe with trouble, and that he was foaming from the mouth. PO Brovakos told § 87(2)(b) "Spit it out bro. You wanna fucking die? You fucking spit it out." This continued for approximately three minutes. PO Brovakos then handcuffed § 87(2)(b). PO Brovakos and PO Savas pulled § 87(2)(b) up and placed him in their patrol car. § 87(2)(b) denied swallowing anything.

§ 87(2)(b) was then taken to the stationhouse. He was taken to a cell area by PO Brovakos and PO Savas. PO Brovakos asked him to remove his shirt and jeans, which he did. PO Brovakos located additional cash inside a pair of shorts § 87(2)(b) was wearing underneath his pants. PO Brovakos then placed his finger under the waistband of § 87(2)(b)'s underwear and pulled it out. Following this, § 87(2)(b) was taken to § 87(2)(b) by EMS. § 87(2)(b) refused to consent to treatment and was held 24 hours for observation.

Arrest Photograph (encl. 6)

The arrest photograph of § 87(2)(b) shows no visible injuries.

Attempts to Contact Civilians

§ 87(2)(b) was unable to provide the full name or contact information for § 87(2)(b) referring to him only as § 87(2)(b). The investigation obtained § 87(2)(b)'s information from PO Brovakos during his statement; § 87(2)(g)

NYPD Statements

Subject Officer: PO TIMOTHY BROVAKOS

- PO Brovakos is a § 87(2)(b)-old white male, 5'10", weighing 195 lbs, with brown hair and blue eyes.
- On the date of the incident, PO Brovakos was assigned to patrol Sector A in the 61st Precinct from 7:05 a.m. until 3:40 p.m. He worked in uniform with PO Savas in RMP #3052.

Memo Book (encl. 7)

PO Brovakos' memo book notes a car stop at 3:15 p.m. One individual was arrested at 3:35 p.m. for swallowing a bag of crack.

On-Line Booking Sheet and UF-61 Complaint Report (encl. 8 and 9)

The OLBS and UF-61 note that § 87(2)(b) was operating a vehicle with excessive window tints; he was subsequently found to be in possession of a gravity knife and swallowed a bag of crack cocaine. He flailed his arms and refused to be handcuffed.

Criminal Court Complaint (encl. 10)

The Criminal Court Complaint is consistent with the OLBS and PO Brovakos' statement.

UF-250 Stop and Frisk Report (encl. 11)

PO Brovakos prepared a UF-250 for § 87(2)(b). It notes that he stated, "He was going to sell me a deuce."

CCRB Testimony

On May 26, 2011, PO Timothy Brovakos was interviewed at the CCRB (encl. 12).

On April 5, 2011, at approximately 3:15 p.m., PO Brovakos pulled over § 87(2)(b) at Plumb 1st Street and Avenue W in Brooklyn for excessive window tints. He approached the passenger side while PO Savas approached the driver side. PO Brovakos observed the passenger, § 87(2)(b) fidgeting and rubbing his waistband. This made PO Brovakos fear that § 87(2)(b) might possess a weapon, so he asked § 87(2)(b) to exit the vehicle. He did so and PO Brovakos conducted a frisk of § 87(2)(b)'s waistband. At this time § 87(2)(b) informed PO Brovakos that he had been planning to engage in a narcotics transaction with § 87(2)(b). He stated that § 87(2)(b) had crack cocaine secreted inside his mouth.

PO Brovakos approached the driver side of the vehicle, where PO Savas was interacting with § 87(2)(b). PO Brovakos asked § 87(2)(b) if he had any weapons or drugs; he replied that he did not but appeared nervous and was fidgeting. PO Brovakos asked § 87(2)(b) to exit the vehicle; upon doing so he informed PO Brovakos that he had a knife in his right pants pocket. PO Brovakos reached into his pocket and took out the knife; § 87(2)(b) was not frisked or searched further. § 87(2)(b) was speaking with clenched teeth; PO Brovakos was able to see a small bag of what appeared to be crack cocaine inside his mouth. PO Brovakos ordered § 87(2)(b) to spit it out. § 87(2)(b) began gagging, presumably because he was trying to swallow the bag. PO Brovakos grabbed § 87(2)(b)'s cheeks with his thumb and index finger in an attempt to make him spit out the narcotics, but he refused to do so. PO Brovakos then attempted to handcuff § 87(2)(b). However, § 87(2)(b) bucked his hips and flailed his arms, preventing PO Brovakos from grabbing his arms. PO Brovakos reached around and grabbed § 87(2)(b) around the body from the behind and they both fell to the ground. Once on the ground § 87(2)(b) continued gagging so PO Brovakos once again grabbed his cheeks but was unsuccessful in making him spit out the bag. PO Savas assisted PO Brovakos and they were able to handcuff § 87(2)(b) after struggling for approximately forty seconds. Around this time § 87(2)(b) ceased gagging, presumably because he had managed to swallow the bag.

Sgt. Ramirez responded to the location and instructed PO Brovakos to transport § 87(2)(b) to the 61st Precinct stationhouse. Sgt. Ramirez authorized a strip search, which PO Brovakos conducted. PO Brovakos had § 87(2)(b) remove his clothing with the exception of his boxer shorts. § 87(2)(b) kept these on but pulled them out so PO Brovakos was able to look underneath. No contraband was found but PO Brovakos located additional cash secreted about § 87(2)(b)'s clothing. § 87(2)(b) was then taken to the hospital, where he refused to take charcoal (the treatment for ingesting narcotics) and did not accept any medical attention. PO Brovakos did not place his knee on § 87(2)(b)'s neck. He did not use any profanity or racial epithets, specifically, "Do you wanna fucking die?" or, "You fucking spic, spit it out." § 87(2)(b) was released because he was cooperative and had not committed any offenses.

Subject Officer: SGT ANA RAMIREZ

- *Sgt. Ramirez is a § 87(2)(b) -old Hispanic female.*
- *On the date of the incident, Sgt. Ramirez was the 61st Precinct Patrol Supervisor from 6:55 a.m. until 3:52 p.m.*

CCRB Testimony

Sgt. Ramirez was not interviewed § 87(2)(g)

Witness Officer: PO PAUL SAVAS

- *PO Savas is a § 87(2)(b) -old white male, 5'6", weighing 150 lbs, with brown hair and brown eyes.*
- *On the date of the incident, PO Savas was assigned to patrol Sector A in the 61st Precinct from 7:05 a.m. until 3:40 p.m. He worked in uniform with PO Brovakos in RMP #3052.*

Memo Book (encl. 13)

PO Savas' memo book notes a car stop at 3:15 p.m. One individual was arrested at 3:35 p.m.

CCRB Testimony

On May 26, 2011, PO Paul Savas was interviewed at the CCRB (encl. 14). His statement was generally consistent with that of PO Brovakos.

Medical Records (encl. 15)

FDNY Ambulance Call Report

§ 87(2)(b) was transported to § 87(2)(b) on April 5, 2011. The police alleged that he swallowed a small bag of crack cocaine one hour earlier.

§ 87(2)(b)
On April 5, 2011, § 87(2)(b) was taken to the emergency room of § 87(2)(b). Police informed the hospital staff that § 87(2)(b) had swallowed a bag of crack. § 87(2)(b) denied ingesting any drugs, refused treatment, and was placed under observation for 24 hours. He did not have any visual injuries. § 87(2)(b)'s urine tested positive for cocaine and he was diagnosed with episodic cocaine abuse; he refused further tests.

NYPD Documents

61st Precinct Command Log (encl. 16)

The Command Log notes that Sgt. Rivera authorized a strip search of § 87(2)(b). His physical and mental condition is listed as apparently normal.

Medical Treatment of Prisoner Report (encl. 17)

The Medical Treatment of Prisoner Report notes that § 87(2)(b) swallowed alleged cocaine and was taken to § 87(2)(b). There was no diagnosis because he refused treatment.

61st Precinct Roll Call (encl. 18)

The Roll Call notes the following assignments: Sgt. Rivera was the Patrol Supervisor and PO Brovakos and PO Savas were assigned to Sector A.

UF-49 Unusual Occurrence Report (encl. 19)

Captain Sean Finn of the 61st Precinct created a UF-49 for this incident. Its findings were consistent with the evidence uncovered during the investigation and Capt. Finn concluded that no misconduct had occurred.

Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings

- [§ 87(2)(b)] has not filed a Notice of Claim with the City of New York as of June 15, 2011, with regard to the incident (encl. 21).

Civilian's Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian's CCRB History

- [§ 87(2)(b)] has filed the following CCRB complaints (encl. 2C):

- [§ 87(2)(b)]

Subject Officers' CCRB History

- PO Timothy Brovakos has been a member of the service for four years and there are no substantiated CCRB allegations against him (encl. 2A).
- Sgt. Ana Rivera has been a member of the service for 17 years and there are no substantiated CCRB allegations against her (encl. 2B).

Conclusion

Identification of Subject Officers

- PO Brovakos acknowledged using physical force to restrain [§ 87(2)(b)] PO Brovakos is a dark-haired white male of medium height. This fits the description provided by [§ 87(2)(b)] who also identified PO Brovakos by name. [§ 87(2)(g)]
- Sgt. Ramirez authorized the strip search of [§ 87(2)(b)] [§ 87(2)(g)]

Investigative Findings and Recommendations

Allegations Not Pleaded

§ 87(2)(b) acknowledged that his car had tinted windows in violation of the New York Vehicle and Traffic Law. PO Brovakos confirmed that this was the reason § 87(2)(b) was pulled over. § 87(2)(g)

§ 87(2)(b) alleged that his pockets were searched. However, this search was incident to his arrest. § 87(2)(g)

Allegation A – Force: At Plumb 1st Street and Avenue W in Brooklyn, PO Timothy Brovakos used physical force against § 87(2)(b)

§ 87(2)(b) alleged that PO Brovakos pushed him to the ground. PO Brovakos admitted to taking § 87(2)(b) to the ground, but stated that this occurred while they were struggling. § 87(2)(b) denied resisting, but admitted that it took PO Brovakos three minutes to handcuff him. Both PO Brovakos and PO Savas stated that § 87(2)(b) was flailing his arms and that their combined effort was required to finally restrain him. Officers are permitted to use the “amount of force necessary to overcome resistance.” (encl. 1A). § 87(2)(g)

Allegation B – Force: At Plumb 1st Street and Avenue W in Brooklyn, PO Timothy Brovakos used a chokehold against § 87(2)(b)

§ 87(2)(b) alleged that PO Brovakos placed a knee on the back of his neck, restricting his breathing for approximately three minutes. PO Brovakos denied doing so. § 87(2)(b) told medical personnel that he was not in pain and had no injuries; § 87(2)(g)

§ 87(2)(b) denied swallowing anything. § 87(2)(g) § 87(2)(b) tested positive for cocaine soon after the incident (encl. 15II). He refused even basic monitoring while at the hospital, causing him to remain there for a full twenty-four hours for observation and significantly delaying his eventual release. § 87(2)(g)

Allegation C – Discourtesy: At Plumb 1st Street and Avenue W in Brooklyn, PO Timothy Brovakos spoke obscenely and/or rudely to § 87(2)(b)

Allegation D – Offensive Language: At Plumb 1st Street and Avenue W in Brooklyn, PO Timothy Brovakos made remarks to § 87(2)(b) based upon race.

§ 87(2)(b) alleged that PO Brovakos told him, “You wanna fucking die? You fucking spic spit it out.” PO Brovakos denied doing so. § 87(2)(g) He denied swallowing narcotics, but the investigation determined that he did so (see **allegation B**). § 87(2)(b) neglected to mention that PO Brovakos located a weapon on his person, and that he was charged with said possession.

§ 87(2)(g)

Allegation E – Abuse of Authority: At the 61st Precinct stationhouse, Sgt. Ana Ramirez authorized the strip search of § 87(2)(b)

§ 87(2)(b) alleged that he was strip searched at the 61st Precinct stationhouse. PO Brovakos stated that he informed Sgt. Ramirez that § 87(2)(b) had swallowed a bag of crack cocaine and that § 87(2)(b) had informed him that § 87(2)(b) was in possession of narcotics. Strip searches are permitted when officers have a reasonable suspicion that they will locate contraband that would not be found in a less invasive search (encl. 1C). § 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date